

I. INTRODUCTORY COMMENTS**RESPONSE TO EXAMINER'S ACTION OF AUGUST 16, 2000**

The Examiner's Action of August 16, 2000, refused entry a substitute specification filed April 11, 2000. Your applicant filed a Response on September 22, 2003 comprising an Amendment of the Application for application 09/041,685, entitled A LAMINAR FLOW INTERACTIVE OR VERTICAL VORTEX BIO MEDIA WATER TREATMENT DEVICE. The Amendment to the Specification, the Amendment of the Claim and the remarks are believed responsive to the Office of Petitions re: the Dismissal of November 12, 2003 and to the Final Office Action dated August 16, 2000, to the Examiner's Advisory Action of April 16, 2003 and to comments by the Examiner during teleconferences between counsel and the Examiner. Examiner stated that the substitute specification filed April 11, 2000 was not entered because it did not conform to MPEP 608.01(q) which requires the submission of a marked-up copy which shows additions to and/or deletions from the original specification and that said proffered substitute specification did not conform to 35 CFR 1.125 which requires that applicants certify that there is no new matter, and moreover, that the specification was not entered because it was deemed by the Examiner to be replete with new matter.

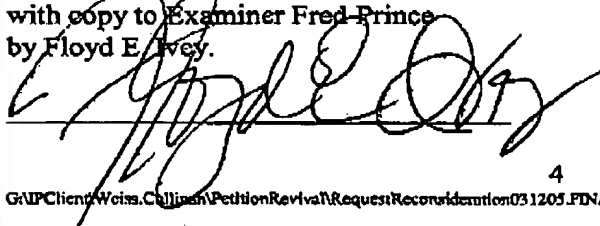
Your applicant submits the following as a Request for Continued Examination of the Amended Specification and Claims in the September 22, 2003 Response.

AMENDMENT, SUBSTITUTION AND CLAIMS FORMAT

The amendments and substitution pages found in the September 22, 2003 Response are submitted in the new format.

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on December 5, 2003 to Office of Petitions
with copy to Examiner Fred Prince
by Floyd E. Ivey.

Application No. 09/041,685



CERTIFICATION OF NO NEW MATTER

Pursuant to 37 CFR 1.125, it is certified that no new matter has been added by the Amendments of September 22, 2003. The additional text found in the Amended Specification is drawn from a review of the drawings as originally submitted comprising Figures 1 through 11. Deriving additional description of the invention from the drawings is recognized as proper and it is contended here that no new matter has been added.

The test of the right to make counts is to be found in the total disclosure. Thus, the omission of a written description in the specification of an application will not necessarily prevent the reading of a count on a structure shown in the drawing and described in general terms in the specification. Here, the function of the disclosed structure is inherent in the structure shown in the drawings forming a part of the application. *Wooster v. Carlson*, 367 F.2d 436, 441, Cust. & Pat.App. 1966; *Carlson v. Nagata*, 480 F.2d 1372, 1375-76 ; Cust. & Pat.App.,1973

The inventors are Max V. Weiss, 407 Skidoo Bay, Polson, Mt. 59860 and Terry J. Cullinan, P.O. Box 2725, Missoula, Mt. 59806 are as disclosed in the original application.

A new Declaration was filed March 20, 2003 in accordance with the requirements of the Examiner.

THIS REQUEST FOR CONSIDERATION OF THE DISMISSAL OF THE PETITION FOR REVIVAL AND REQUEST FOR CONTINUED EXAMINATION is being filed by facsimile transmission to FACSIMILE #703-308 6916 with a copy to Examiner Prince at fax 703 872 9709; telephone number 703 306 9169.

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